

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

MATTHEW PENNING,

Plaintiff,

v.

INTRINSICTEL LLC, et al.,

Defendants,

Hon. Janet T. Neff

Case No. 1:16-cv-00035

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REPORT AND RECOMMENDATION

This matter is before the Court on defendant Kerry Reddick's Motion to Dismiss (ECF No. 45), which was referred to the undersigned by the Honorable Janet T. Neff for report and recommendation under 28 U.S.C. §636(b)(1)(B). Default was entered against defendant Kerry Reddick on October 27, 2016, (ECF No. 69) for failure to appear as ordered for the October 11, 2016, Rule 16 Scheduling Conference and failure to appear ordered (ECF No. 64) to show cause on October 27, 2016, why default and default judgment should not enter against her. Given the default status of defendant, the undersigned recommends that Kerry Reddick's Motion to Dismiss (ECF No. 45) be denied. Should the default be set aside at some point, defendant may be entitled to refile her dispositive motion.

Date: October 27, 2016

/s/ Ellen S. Carmody
ELLEN S. CARMODY
U.S. Magistrate Judge

OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within 14 days of the date of service of this notice. 28 U.S.C. § 636(b)(1)(C). Failure to file objections within the specified time waives the right to appeal the District Court's order. *Thomas v. Arn*, 474 U.S. 140, 155 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).